IN THE DISTRICT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION 3:09cv488

EVANGELINE G. SMITH,)	
)	
Plaintiff,)	
)	
Vs.)	ORDER AMENDING
)	JUDGMENT
MICHAEL J. ASTRUE,)	
Commissioner of Social Security,)	
)	
Defendant.)	
)	

THIS MATTER is before the court on leave granted by the Court of Appeals for the Fourth Circuit to amend the given name of plaintiff as it appears in the caption of the Judgment entered March 31, 2011.

While the Complaint (#2) in this matter reflects the correct spelling of plaintiff's first name -- Evangeline -- review of all subsequent filings by plaintiff reveals that she consistently spelled her first name "Evangelina." See Motion for Judgment on the Pleadings (#11); Brief in Support of Plaintiff's Motion for Judgment on the Pleadings (#11-1); Motion for Extension of Time (#15); and Objections to Memorandum and Recommendation (#16). Indeed, plaintiff continued with such misspelling of her name after Judgment in her Notice of Appeal (#20).

While noting the origin of the error to be with plaintiff, it is important to correctly spell the names of litigants not just in pleadings, but in the final Judgment. The court will, therefore, in accordance with Rule 60(a), Federal Rules of Civil Procedure, correct

the clerical error in the spelling of plaintiff's name in the Judgment inasmuch as leave has been allowed for this court to do so by the Court of Appeals for the Fourth Circuit. See Fed.R.Civ.P. 60(a) (leave of the appellate court is required to amend a judgment based on a clerical error after appeal has been taken).

ORDER

IT IS, THEREFORE, ORDERED that the Judgment is AMENDED nunc pro tunc to reflect that plaintiff's given name is Evangeline and not Evangelina as previously represented to the court by plaintiff.

The Clerk of this Court is instructed to send a courtesy copy of this Order to Honorable David S. Cayer, United States Magistrate Judge.

Signed: July 14, 2011

Max O. Cogburn Jr.
United States District Judge

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